

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
January 21, 2003

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:01 p.m., Tuesday, January 21, 2002, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zaremba, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and Thomas G. Shepperd.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

Invocation. Deacon Terry Manning of Rising Sun Baptist Church gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Burgett led the Pledge of Allegiance.

HIGHWAY MATTERS

Mr. Steve Hicks, Resident Engineer, Virginia Department of Transportation (VDOT), appeared to discuss highway matters of interest to the Board of Supervisors. He handed out information to the Board to help citizens and the Board identify those road areas in need. A meeting will be scheduled later to address the constant requests from citizens. He reported that the Coleman Bridge had technical difficulties, and that it would be closed on Sunday from 7:00 a.m. – 12:00 p.m. for minor repairs and preventative maintenance. He reported the National Park Service Bridge will undergo repairs in February with completion scheduled for June. He thanked Mr. Wiggins and the Board for their involvement with the drainage studies. He mentioned a meeting had been scheduled to expedite the Route 17 and Route 134 left-turn lane extensions. He reported that the stop sign at Sonshine Way had now been installed and that VDOT was looking at ways to widen Dogwood Road at the Route 238 intersection. He stated the land use permit had been issued to proceed with the drainage work on Wildey Road, and that the potholes on Royal Grant and Queen Anne had been repaired. There is a contact person for the Shady Banks Shopping Center, and he noted he would get with Mrs. Noll on the First Street matter later. Mr. Hicks told Chairman Burgett he had looked at the Route 17 turn lane in front of Wal-Mart and stated he was unsure of how to proceed at this time, but that he will have the traffic engineering department become involved in discussions. He stated that the drainage problems on Route 17, across from York Crossing Drive, and in the Mansion Road area have now been remedied.

Mr. Wiggins thanked both Mr. Hicks and Tim Morrison for the work they've done with County staff and the Board. He asked Mr. Hicks about Edgehill and VDOT's plan in 2001 to repave the roads. He stated that Harris Grove Lane, Laurel Path and Azalea Drive had never received paving. He also stated that the intersection of Route 17 and Denbigh Boulevard was problem-

January 21, 2003

atic due to traffic congestion during rush hour. He suggested that another left-turn lane be installed.

Mr. Hicks stated he had observed that intersection, and he intends to have a dual left-turn lane installed once funding to widen Route 17 had been identified. He stated he has already conversed with traffic engineering regarding the new lane and hopes to have it completed within three to six months.

Mrs. Noll expressed her gratitude to Mr. Hicks for his cooperation.

Mr. Zaremba thanked Mr. Hicks for the quick response to repairs on Royal Grant Drive. He asked that Mr. Hicks contact him to arrange a time they could visit Holcomb Drive in the Queens Lake area. He stated the pavement had washed away where a culvert or drainage pipe is not draining properly.

Mr. Shepperd also expressed his appreciation to Mr. Hicks for his involvement and stated he would discuss his transportation issues later in the meeting during Matters Presented by the Board. Mr. Shepperd asked Mr. Hicks how he received email requests from citizens.

Mr. Hicks explained that citizens can go to the VDOT web page, type in his name, and his email address will pop up. He stated that the department will soon be providing an information tool called a "Dashboard" that will give the status of all projects in the Williamsburg residency. The projects listed on the Dashboard will also offer his email address.

Chairman Burgett complimented Mr. Hicks on his residency and thanked him for adding Carraway Terrace to the paving schedule this year.

## PRESENTATIONS

### EMPLOYEE ECOGNITION PROGRAM

Chairman Burgett congratulated Mr. Larry Perdue for having attained 20 years of service with the County. He then presented Mr. Perdue with a 20-year service pin and certificate.

### HAMPTON ROADS PLANNING DISTRICT COMMISSION

Mr. John Carlock, a representative from the Hampton Roads Planning District Commission, provided a visual presentation on the Phase II Stormwater Management requirements. Some of the topics of the presentation included Regional Program History, Regional Stormwater Management Program Goals, Program Components, and Legal Requirements. He reported that seven localities are participating in developing a consistent program across the region

Mr. Zaremba asked about costs and how they will affect localities

Mr. Carlock pointed out the cost effectiveness of localities joining forces together, rather than trying to accomplish costly projects on their own.

Mr. Wiggins noted that York County was very cognizant of drainage problems and, as a result, had formed a drainage committee.

#### CITIZENS COMMENT PERIOD

Mr. Joseph Smith, 594 Taliferro Road, appeared to explain problems he had concerning his property and the arrears on his real estate taxes.

Chairman Burgett directed Mr. Smith to the County Attorney for help.

Mr. John Holston, 105 York Point Road, appeared to thank the Board, Mr. Wiggins, Tim Morrison, and Jim Brewer for help in correcting the drainage problems at his home. He then described some of the horrible flooding problems he had experienced.

Recess: At 7:52 p.m. Chairman Burgett declared a short recess.

Reconvene: At 8:01 p.m. the meeting was reconvened in open session by order of the Chair.

#### PUBLIC HEARINGS

##### APPLICATION NO. ZT-70-02, GROUP HOMES, YORK COUNTY PLANNING COMMISSION

Mr. Mark Carter, Planning and Zoning Manager, made a presentation on Application No. ZT-70-02 to amend the York County Code to revise the definition and use regulations applicable to group homes, to create a definition and listing for transitional home, and to revise the definition of family. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Ordinance No. 03-2.

Mr. Zaremba questioned the use of the word 'temporary' in the County Administrator's memo.

Mr. Carter explained that the term was intentionally not defined because the needs of the citizens vary so much, it would be difficult to say what time period would be best for each person.

Mr. Shepperd asked what the difference was in what was being described and a homeless shelter.

Mr. Carter stated that the homeless shelter could fit under the transitional home definition.

Discussion ensued regarding the proposed ordinance.

Chairman Burgett called to order a public hearing on Application No. ZT-70-02 that was duly advertised as required by law. Proposed Ordinance No. 03-2 is entitled:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-70-02, WHICH PROPOSES AMENDMENT OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO REVISE THE DEFINITION AND USE REGULATIONS APPLICABLE TO GROUP HOMES, TO CREATE A DEFINITION AND LISTING FOR

January 21, 2003

TRANSITIONAL HOME, AND TO REVISE THE DEFINITION OF  
FAMILY

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Mr. Zaremba then moved the adoption of proposed Ordinance 03-2 which reads:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-70-02, WHICH PROPOSES AMENDMENT OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO REVISE THE DEFINITION AND USE REGULATIONS APPLICABLE TO GROUP HOMES, TO CREATE A DEFINITION AND LISTING FOR TRANSITIONAL HOME, AND TO REVISE THE DEFINITION OF FAMILY

WHEREAS, in accordance with Section 24.1-302 of the Zoning Ordinance, the Zoning Administrator has evaluated a proposal for a group living facility and has determined that the use is one "not provided for," thereby causing the proposal to be forwarded to the Planning Commission for consideration; and

WHEREAS, the Planning Commission sponsored this application to allow consideration of amendments to expand the definition of "group home" to include opportunities for occupancy by residents who are not necessarily "handicapped," as is the current requirement; and,

WHEREAS, the Planning Commission has considered the proposed amendments in accordance with standard procedures and has recommended approval; and

WHEREAS, the Board has considered the proposed amendments at a duly advertised public hearing and has determined that it would be appropriate to approve the proposed amendments in order to ensure consistency with the Code of Virginia and to expand occupant eligibility criteria for such facilities.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 21<sup>st</sup> day of January, 2003 that it does hereby approve the following amendments to Chapter 24.1, Zoning, of the York County Code:

Amend Section 24.1-104, Definitions, as follows:

\*\*\*

*Family.* An individual, or two (2) or more persons related by blood, marriage or adoption, or a group of not more than four (4) unrelated persons, occupying a single dwelling unit. For purposes of single-family residential occupancy, the term also shall be deemed to encompass the residents of group homes or other residential facilities, as defined in Section 15.2-2291 of the Code of Virginia, which are licensed by the department of mental health, mental retardation and substance abuse services or the department of social services and which are occupied by not more than eight (8) mentally ill, mentally retarded, developmentally disabled, aged, infirm or disabled persons together with one (1) or more resident counselors. Mental illness and developmental disability does not include current illegal use of or addiction to a controlled substance as defined in section 54.1-3401, Code of Virginia.

\*\*\*

*Group home.* A dwelling unit shared by more than four (4) unrelated handicapped persons, including resident staff, who live together as a single housekeeping unit in which staff persons provide or facilitate care, education, and participation in community activities for the residents with the primary goal of enabling persons who are handicapped, mentally ill or retarded, developmentally or physically disabled, or who because of age or physical infirmity, require the protection or assistance of a group setting, to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having:

- ? A physical or mental impairment that substantially limits one or more of a person's major life activities so that such person is incapable of living independently; or
- ? A record of having such an impairment; or
- ? Being regarded as having such an impairment.

"Handicapped" shall not, however, include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home" shall not include detention facilities operated under the standards of the Department of Juvenile Justice, nursing homes, alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration or where the residents are under the supervision of a court.

*Transitional home.* A dwelling unit, other than a group home, shared by more than four (4) unrelated persons, including resident staff, who live together temporarily as a single housekeeping unit, and in which staff persons provide or facilitate care, education, counseling and participation in community activities for the resident clients. The following and similar types of occupancy shall be considered to be transitional housing:

- ? Temporary quarters for victims of physical or emotional abuse;
- ? Temporary or emergency quarters for children or adults needing room and board and support services that would lead to self-sufficiency and permanent shelter.

The term "transitional home" shall not include detention facilities operated under the standards of the Department of Juvenile Justice, nursing homes, alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration or where the residents are under the supervision of a court.

\*\*\*

Amend Section 24.1-306, Table of Land Uses, Category 1, as follows:

\*\*\*

Sec. 24.1-306 Table of Land Uses

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT  USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUS- TRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
CATEGORY 1 - RESIDENTIAL USES													
1. Residential - Conventional	P	P	P	P		S							
a) Single-Family, De- tached													
b) Single-Family, At- tached				S		P							
• Duplex						P							
• Townhouse						P							
• Multiplex						P							
c) Multi-Family						P							
d) Manufactured Home (Permanent)					P								
2. Residential (Cluster Techniques Open Space Development)													
a) Single-Family, De- tached	P	P	P	P									
b) Single-Family, Attached													
• Duplex	S	S	S	S									
3. Apartment Accessory to Single-Family Detached	P	P	P	S									
4. Manufactured Home Park					S								
5. Boarding House		S				S							
6. Tourist Home, Bed and Breakfast		S	S	S		S		P	P				
7. Group Home (for more than 8 occupants)		S	S	S		S							
8. Transitional Home		S	S	S		S							

\*\*\*

Amend Section 24.1-408, Standards for Group Homes (w/ more than 8 occupants) and Transitional Homes, as follows:

Sec. 24.1-408. Standards for group homes (w/ more than 8 occupants) and transitional homes.

- (a) The maximum number of persons accommodated in any group home or transitional home shall not exceed twelve (12) exclusive of resident staff, provided however, that the board may specify a greater or lesser number in consideration of the density and character of the surrounding area and the characteristics of the site itself.

- (b) The external appearance and arrangement of such facility shall be of a form and character which is compatible with the appearance and arrangement of other residential uses in the general area.
- (c) All off-street parking and loading in excess of that required of single-family detached dwellings shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by a Transitional Buffer Type 25.
- (d) Such facility shall comply at all times with all applicable licensing requirements of the appropriate state regulatory agencies.
- (e) Such facility shall be under 24-hour/day care and supervision of a professional staff person (or persons), one or more of whom may also reside in the facility. The required professional qualifications of the supervisory staff shall be submitted for review as part of the zoning authorization process.
- (f) The facility may include and offer on-site counseling, education and training services for residents. However, such services may not be offered at the premises to non-residents.
- (g) The minimum lot size for such facility shall be based on the number of residents (exclusive of staff) proposed to be housed in the facility, as set forth below:
 

5 to 8 residents	-	Two (2) times the district minimum
9 to 12 residents	-	Three (3) times the district minimum
12 or more	-	Four (4) times the district minimum
- (h) As part of the application for Special Use Permit approval, the applicant shall submit a detailed description of the types of clients proposed to be served by the facility, a statement outlining proposed admission requirements and procedures, a description of the proposed facility staffing, a description of programs and services to be available to the residents of the facility (e.g., counseling, training, transportation, etc.), an identification of the licensing agency(s) for the proposed facility, and a statement from the applicable licensing agency that the proposed facility would be eligible for such a license if use permit authorization is given by the County.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Burgett  
 Nay: (0)

APPLICATION NO. UP-611-03, DEANNA AND DWIGHT NEWINGHAM

Mr. Carter made a presentation on Application No. UP-611-03 for a Special Use Permit to authorize a real estate office as a home occupation within an existing single-family detached residence located at 218 Ryans Way and to authorize a non-resident employee. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R03-4. He stated that the Commission had proposed a two-year

January 21, 2003

expiration for the non-resident employee, but staff suggested the Board consider extending that term to a longer period, perhaps five years.

Mr. Shepperd stated that the space in the home seemed to be adequate, but he was concerned that this would set a precedent.

Mr. Carter stated he did not feel a precedent was being set since any of the Special Use Permits could be looked at individually.

Chairman Burgett called to order a public hearing on Application No. UP-611-03 that was duly advertised as required by law. Proposed Resolution R03-4 is entitled:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL  
USE PERMIT TO AUTHORIZE A REAL ESTATE OFFICE AS A HOME  
OCCUPATION WITHIN AN EXISTING SINGLE-FAMILY DETACHED  
RESIDENCE LOCATED AT 218 RYANS WAY

There being no one present who wished to speak concerning the subject application, Chairman Burgett closed the public hearing.

Chairman Burgett stated that the subject property was in his neighborhood, and he suggested that the Board amend the proposed resolution to make the expiration term a five-year period with the stipulation that the employee be related.

Mr. Zaremba questioned the need to specify that the employee must be a relative.

Mr. Shepperd pointed out that a standard in the County would be set, and that generally there aren't employees in a home occupation. He stated if they change the standard, they would change it not only for this business but for all others.

Mr. Carter stated that the proposed ordinance anticipated that Board might want to change that time limit.

Chairman Burgett stated that most Special Use Permits that come before the Board seem to have specific requirements attached to it. He was amenable to five years.

Mr. Zaremba asked if the five-year request was initiated by the applicant or staff.

Mr. Carter explained it was staff that felt a longer term would be appropriate and that staff had recommended to the Commission it be a five-year term, and the applicant concurred.

Mrs. Noll then moved the adoption of proposed Resolution R03-4(R) that reads:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL  
USE PERMIT TO AUTHORIZE A REAL ESTATE OFFICE AS A HOME  
OCCUPATION WITHIN AN EXISTING SINGLE-FAMILY DETACHED  
RESIDENCE LOCATED AT 218 RYANS WAY

WHEREAS, Deanna and Dwight Newingham have submitted Application No. UP-611-03, pursuant to Section 24.1-306 (Category 3, No. 2) of the York County Zoning Ordinance, to



authorize a real estate office as a home occupation within a single-family detached dwelling located at 218 Ryans Way and further identified as Assessor's Parcel No. 30-77-1; and

WHEREAS, said application has been referred to the York County Planning Commission; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Board has given careful consideration to the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 21<sup>st</sup> day of January 2003, that Application No. UP-611-03 be, and it is hereby, approved to authorize a Special Use Permit pursuant to Section 24.1-306 (Category 3, No. 2) of the York County Zoning Ordinance, subject to the following conditions:

1. This use permit shall authorize the establishment of a real estate office as a home occupation in an existing single-family detached structure located at 218 Ryans Way and further identified as Assessor's Parcel No. 30-77-1.
2. This use permit shall authorize the employment of no more than one (1) non-resident.
3. The real estate office shall not exceed 500 square feet in area.
4. The hours of operation for the real estate office shall be from 9:00 a.m. to 5:00 p.m., Monday through Friday.
5. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.
6. This home occupation shall be developed and operated in accordance with the standards set forth in Section 24.1-281, General requirements for home occupations, and Section 24.1-283, Home occupations permitted by special use permit, of the York County Zoning Ordinance.
7. The applicant is permitted to have one (1) non-resident employee for a period of five (5) years from the date of issuance. Nothing herein shall be construed to prevent the operator of the home occupation from renewing the permit to reflect the continued service of one (1) non-resident employee.
8. Street address numbers, not less than three inches (3") in height and of a durable and clearly visible material, shall be placed conspicuously on the existing wooden pole at the end of the applicant's driveway and shall contain numbers of a contrasting color to the background on which they are mounted.

January 21, 2003

On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Burgett  
Nay: (0)

APPLICATION NO. UP-612-03, CARL & KAREN BERQUIST

Mr. Carter made a presentation on Application UP-612-03 for a Special Use Permit to authorize a detached accessory apartment at 469 Catesby Lane. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R03-5.

Mr. Zaremba questioned the enforcement to ensure that the subject property would not be rented out to non-family residents.

Mr. Carter stated that the code enforcement staff visits properties on a yearly basis, and the County also relies on the neighbors to report any violations that may be apparent.

Mr. Shepperd pointed out that this dwelling was a 900 square foot dwelling, or 72 percent of the main dwelling. He explained that that figure was well above what he had seen in the past for an accessory apartment.

Mr. Carter stated it was the largest percentage-wise request that had been processed in the County.

Mr. Shepperd stated he was confused over what the standards were for accessory apartments.

Discussion ensued over previously approved accessory apartments and lot sizes.

Mr. Carter reported that the Planning Commission would meet tomorrow evening to discuss the proposed text amendments dealing with accessory apartments.

Mr. Burgett expressed his concern over other applicants requesting to add such a dwelling on a smaller lot.

Mr. Carter stated the size of this request, relative to the lot, was looked at based on individual circumstances and settings.

Chairman Burgett stated he understood the need for citizens wanting the apartments for elderly parents and their children, and he shared his concern for applicants coming before the Board with requests for large accessory apartments. He stated the code needed to be worked out so that the apartments would conform to code. He stated this was a house, and the size of the lot was immaterial.

Chairman Burgett called to order a public hearing on Application No. UP-612-03 that was duly advertised as required by law. Proposed Resolution R03-5 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO  
AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 469  
CATESBY LANE

There being no one present who wished to speak concerning the subject Resolution, Chairman Burgett closed the public hearing.

Mrs. Noll stated she thought the 72 percent was too large.

Mr. Shepperd agreed that 72 percent was over the top, but stated he did not know what the standards were.

Mr. Zaremba stated he hoped that the Planning Commission would bring the Board a set of criteria so that once it is adopted they could stick to it. He pointed out that he did not want to be unfair to the applicant, considering the amount of accessory apartments that have been approved before.

Mr. Shepperd suggested that the loft be removed to eliminate 300 square feet, and to put it more in line with what has been discussed in the past.

Chairman Burgett suggested the issue should be tabled to give the applicant the option of removing the loft.

Mrs. Noll then moved to table Application No. UP-612-03.

On roll call the vote was:

Yea:	(5)	Wiggins, Shepperd, Zaremba, Noll, Burgett
Nay:	(0)	

AMENDMENT TO FY2003 BUDGET

Mr. McReynolds stated that in the late 1980's the County issued bonds for the construction of new fire stations and for the acquisition of new equipment. These bonds will be paid off during the period of the proposed CIP, and this will provide additional funds which can be used to level fund the purchase of replacement equipment if approved by the Board of Supervisors.

Chairman Burgett inquired about the age of the ambulances, and the need for replacements.

Mr. Stephen Kopczynski, Fire Chief, explained that the ambulance for Seaford was acquired through grant funds. He stated the ambulance fleet was becoming increasingly active, and it was felt it would be best to include those two units in the replacement process at this point.

Mr. McReynolds explained that staff considered the age of the units, when they would need to be replaced, and they were so close to the threshold that staff felt it was best to go ahead and wrap it into one purchase to get the benefits of larger financing, yet fit within the confines of the CIP as currently approved.

Discussion ensued over replacing emergency vehicles.

January 21, 2003

Mrs. Noll mentioned the vehicle maintenance department and its plan to depreciate vehicles and put money aside for future purchases. She questioned why it has taken this length of time to do that.

Mr. McReynolds stated the County hasn't been able to address replacements due to bond issues dating back to the late 1980's. The bonds are now being paid off, and now is the time to discuss replacements.

Chairman Burgett called to order a public hearing on proposed Resolution R03-6 that was duly advertised as required by law and is entitled:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO PURCHASE FIRE AND LIFE SAFETY EQUIPMENT AND TO AP-  
PROPRIATE ADDITIONAL CAPITAL IMPROVEMENT FUNDS

There being no one present who wished to speak concerning the subject Resolution, Chairman Burgett closed the public hearing.

Mr. Zaremba then moved the adoption of proposed Resolution R03-6 that reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO PURCHASE FIRE AND LIFE SAFETY EQUIPMENT AND TO AP-  
PROPRIATE ADDITIONAL CAPITAL IMPROVEMENT FUNDS

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, that it involves the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for Fire and Life Safety Equipment, without further action by this Board, provided that all purchases do not exceed funds available for said purpose approved by the Board of Supervisors, as set forth in the (amended) Yorktown FY2003 CIP.

BE IT FURTHER RESOLVED that funds in the total amount of \$1,945,000 be, and hereby are, appropriated in the County Capital Fund for the purchase of Fire and Life Safety equipment.

	<u>AMOUNT</u>
Fire and Life Safety equipment	\$1,945,000

On roll call the vote was:

Yea:	(5)	Shepperd, Zaremba, Noll, Wiggins, Burgett
Nay:	(0)	

AMENDMENT TO YORK COUNTY CODE: DEFINITIONS

Mr. Barnett made a presentation on proposed Ordinance No. 03-1 to amend County Code Section 1-2 relative to the definition of "State Code" and to reenact and readopt County Code Sections 15-6 and 15-7 in their entirety so that fines resulting from certain traffic offenses can be paid to the County.

Chairman Burgett called to order a public hearing on proposed Ordinance 03-1 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND COUNTY CODE SECTION 1-2 RELATIVE TO THE DEFINITION OF "STATE CODE" AND TO REENACT AND READOPT COUNTY CODE SECTIONS 15-6 AND 15-7 IN THEIR ENTIRETY

There being no one present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance 03-1 that reads:

AN ORDINANCE TO AMEND COUNTY CODE SECTION 1-2 RELATIVE TO THE DEFINITION OF "STATE CODE" AND TO REENACT AND READOPT COUNTY CODE SECTIONS 15-6 AND 15-7 IN THEIR ENTIRETY

BE IT ORDAINED by the York County Board of Supervisors, this 21<sup>st</sup> day of January, 2003, that section 1-2, York County Code, be and it is hereby amended to read and provide as follows:

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following rules shall be observed, unless otherwise specifically provided or unless such construction would be inconsistent with the manifest intent of the board of supervisors.

*Generally.* The rules of construction given in sections 1-13.1 to 1-15, Code of Virginia, shall govern, so far as applicable, the construction of all words not defined in this section or elsewhere in this Code.

*Board of Supervisors; board.* Wherever the term "board of supervisors" or "board" is used, it shall be construed to mean the board of supervisors of the County of York.

*Bond.* When a bond is required, an undertaking in writing shall be sufficient.

*Code.* Wherever the term "Code" or "this Code" is used, without further qualification, it shall mean the Code of the County of York, Virginia, as designated in section 1-1.

*Computation of time.* Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

*County.* The word "County" shall mean the County of York in the State of Virginia.

*County Administrator.* Whenever the term "county administrator" is used, it shall mean the county administrator or his designee.

*Gender.* A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

*Health department.* The term "health department" shall mean the department of the public health of the county.

*Health officer.* The term "health officer" shall mean the legally designated health authority of the state board of health for the county or his authorized representative.

*Joint authority.* Words purporting to give authority to three (3) or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

*Month.* The word "month" shall mean a calendar month.

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one person and things; and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

*Oath.* The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath.

*Officers, board, etc.* Whenever reference is made to a particular officer, department, board, commission or other agency, such reference shall be construed as if followed by the words "of the County of York, Virginia."

*Official time standard.* Whenever particular hours are referred to, the time applicable shall be official standard time or daylight savings time, whichever may be in current use in the county.

*Or, and.* "Or" may be read "and" and "and" may be read "or" if the sense requires it.

*Owner.* The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of such building or land.

*Person.* The word "person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

*Preceding; following.* The words "preceding" and "following" mean next before and next after, respectively.

*Sidewalk.* The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Signature or subscription includes a mark when a person cannot write.

*State; commonwealth.* The words "state" and "commonwealth" shall be construed as if the words "of Virginia" followed.

*State Code and state regulations.* References to the "State Code" or "Code of Virginia" shall mean the Code of Virginia, 1950, as amended. Whenever this code incorporates, by reference, any state statute or regulation into an ordinance, the corporation by reference shall include any future amendments to the referenced state statutes or regulations, unless contrary intent is specifically stated in the ordinance.

*Street; highway; road.* The words "street," "highway" and "road" shall include public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the county, and shall mean the entire width thereof between abutting property lines. Such words shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the board of supervisors.

*Swear, sworn.* The word "swear" or "sworn" shall be equivalent to the word "affirm" or "affirmed" in all cases in which, by law, an affirmation may be substituted for an oath.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

Written or in writing shall be construed to include any representation of words, letters or figures, whether by writing or otherwise.

*Year.* The word "year" shall be construed to mean a calendar year; and the word "year" alone shall be equivalent to the expression "year of our Lord."

BE IT FURTHER ORDAINED by the York County Board of Supervisors that York County Code Sections 15-6 and 15-7 are hereby reenacted and readopted in their entirety as follows:

Sec. 15-6. Adoption of state law—Generally.

- (a) Pursuant to the authority of section 46.2-1313, Code of Virginia as amended, all of the provisions and requirements of the laws of the state contained in title 46.2, Code of Virginia, as amended, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the county. For law enforcement purposes only, "highway" shall include all private roads, streets or other access ways located within any residential development containing one hundred (100) or more lots. Such provisions and requirements are hereby adopted and made a part of this chapter as fully as though set forth at length herein,

January 21, 2003

and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2, Code of Virginia, as amended, which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2, Code of Virginia, as amended.

- (b) All definitions of words and phrases contained in the state law hereby adopted shall apply to such words and phrases, when used in this chapter, unless clearly indicated to the contrary.

Sec. 15-7. Driving while under influence of alcohol or drugs; adoption of state law.

Article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Burgett  
Nay: (0)

#### AMENDMENT TO YORK COUNTY CODE: ASSAULT AND BATTERY

Mr. Barnett made a presentation on proposed Ordinance No. 03-3 to amend County Code Section 16-16 "Assault and Battery" to bring in into conformance with State Code. He explained that the request came from the Commonwealth's Attorney to parallel the County Code language to be in line with the revisions in the state code.

Mr. Shepperd pointed out that the proposed ordinance did not require school bus drivers as a security enforcement of the school.

Mr. Barnett stated he had copied the language from the state statute, and that the County could not go beyond the statute in that regard.

Chairman Burgett called to order a public hearing on proposed Ordinance No. 03-3 which was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND COUNTY CODE SECTION 16-16 "ASSAULT AND BATTERY" TO BRING IT INTO CONFORMANCE WITH STATE CODE

There being no one present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance No. 03-3 that reads:

AN ORDINANCE TO AMEND COUNTY CODE SECTION 16-16 "ASSAULT AND BATTERY" TO BRING IT INTO CONFORMANCE WITH STATE CODE



BE IT ORDAINED by the York County Board of Supervisors, this 21<sup>st</sup> day of January, 2003, that section 16-16, York County Code, be and it is hereby amended to read and provide as follows:

Sec. 16-16. Assault and battery.

- (a) Any person who shall commit a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor. However, if a person intentionally selects the person against whom the offense is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a mandatory, minimum term of confinement of at least six months, thirty days of which shall not be suspended, in whole or in part.
- (b) In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a mandatory, minimum sentence of fifteen days in jail, two days of which shall not be suspended in whole or in part. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to Code of Virginia § 18.2-308.1, the person shall serve a mandatory, minimum sentence of confinement of six months which shall not be suspended in whole or in part.
- (c) "Simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, principal, assistant principal, guidance counselor, or school security officer, in the course and scope of his acting official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.
- (d) For purposes of this section, "school security officer" means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Burgett  
 Nay: (0)

VACATION OF A PORTION OF MARTIAU STREET

January 21, 2003

Mr. Barnett made a presentation on proposed Ordinance No. 03-4 to vacate a portion of Martiau Street, and to declare the title to be vested in the Board of Supervisors of York County.

Mr. Zaremba inquired about the correspondence that suggested the York Town Trustees may attempt to prove ownership of the land in exchange for \$9,900 from the County.

Mr. Barnett explained that the Trustees had no interest in pursuing ownership of the property.

Discussion ensued over the vacation.

Chairman Burgett called to order a public hearing on proposed Ordinance No. 03-4 that was duly advertised as required by law and is entitled:

AN ORDINANCE VACATING A PORTION OF MARTIAU STREET,  
YORKTOWN, VIRGINIA, AND DECLARING TITLE TO BE VESTED IN  
THE BOARD OF SUPERVISORS OF YORK COUNTY, VIRGINIA

There being no one present who wished to speak concerning the subject ordinance, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance No. 03-4 that reads:

AN ORDINANCE VACATING A PORTION OF MARTIAU STREET,  
YORKTOWN, VIRGINIA, AND DECLARING TITLE TO BE VESTED IN  
THE BOARD OF SUPERVISORS OF YORK COUNTY, VIRGINIA

WHEREAS, among the streets laid out in Yorktown, is the street now known as Martiau Street, said street being shown (but not named) on a plat recorded among the York County land records in Deed Book 21, page 498, and on a survey control map of Yorktown, dated February 16, 1949, by R. F. Pyle, and recorded in Plat Book 8, pages 469A and 469B among the land records of the York County Circuit Court; and

WHEREAS, a portion of Martiau Street has been accepted into the State Secondary System of Highways and has been maintained for a number of years by the Virginia Department of Transportation as a public street, with the remaining portion of Martiau Street, however, not having been used in recent years for public access, namely, that portion shown as "Portion of Martiau Street Hereby Voided" on a plat made by AES Consulting Engineers, which plat is attached to the Report of the County Attorney dated December 17, 2002; and

WHEREAS, the County is the owner of lands abutting both sides of the said portion of Martiau Street by virtue of a deed recorded among the York County land records as Instrument No. 020005495, dated March 25, 2002; and

WHEREAS, following a duly advertised public hearing, it is the opinion of the Board that the unopened portion of Martiau Street described above shall be vacated.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that all that portion of Martiau Street as is shown as "Portion of Martiau Street Hereby Voided" on the plat made by AES Consulting Engineers dated December 5, 2002, entitled "Plat Showing a Portion of Martiau Street to be Vacated," attached to the County Attor-

ney's Report to the Board dated December 17, 2002, is hereby vacated pursuant to Code of Virginia § 15.2-2006.

BE IT FURTHER ORDAINED that title to the vacated portion of Martiau Street is declared to be vested in the name of the Board of Supervisors of York County, Virginia.

A certified copy of this Ordinance shall be recorded among the land records of the York County Circuit Court, as deeds are recorded, and indexed in the name of the County, as required by Code of Virginia § 15.2-2006.

On roll call the vote was:

Yea: (5) Wiggins, Shepperd, Zaremba, Noll, Burgett  
Nay: (0)

#### CONDEMNATION OF A VACATED PORTION OF MARTIAU STREET

Mr. Barnett made a presentation on proposed Resolution R03-7 to enter upon and take certain lands in connection with the development of the Yorktown waterfront.

Chairman Burgett called to order a public hearing on proposed Resolution R03-7 that was duly advertised as required by law and is entitled:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON  
AND TAKE CERTAIN LANDS IN CONNECTION WITH THE DEVELOPMENT OF THE YORKTOWN WATERFRONT

There being no one present who wished to speak concerning the subject resolution, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R03-7 that reads:

A RESOLUTION DECLARING THE NECESSITY TO ENTER UPON  
AND TAKE CERTAIN LANDS IN CONNECTION WITH THE DEVELOPMENT OF THE YORKTOWN WATERFRONT

WHEREAS, it is necessary to obtain land contained within a vacated portion of Martiau Street, in Yorktown, in connection with the construction of a public parking facility; and

WHEREAS, the County is unable to determine the identity of the owners of the property and therefore is unable to obtain from the owners of such property clear title to the interests in real estate necessary, or any agreement as to the consideration to be paid for the said interests; and

WHEREAS, plats of the interests in real property to be acquired have been prepared by AES Consulting Engineers and appraisals of such interests have been prepared; and

WHEREAS, § 15.2-1904, § 15.2-1905 (E) and § 25-232.01, of the Code of Virginia, authorizes the Board to adopt a resolution following a public hearing on the matter declaring its

January 21, 2003

intent to enter and take specified properties, rights-of-way or easements for any authorized public undertaking.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that the Board finds that it is necessary for the protection and preservation of the public health, safety and welfare, and for the timely completion of the proposed parking facility, for the County, its officers, employees and agents to enter upon and take the interests in real property described below prior to the initiation of condemnation proceedings.

BE IT FURTHER RESOLVED that the interests to be taken, and the compensation and damages, if any, offered by the County for each are the following, which interests are more particularly described on the plats attached to the Report of the County Attorney dated December 17, 2002, and incorporated herein by this reference.

Unopened portion of Martiau Street, adjacent to York County Tax Map Parcels 18A-1-7B, 18A-1-146, 18A-1-147

All that property lying within a portion of Martiau Street and shown as "Portion of Martiau Street Hereby Voided" on a plat entitled, "Plat Showing a Portion of Martiau Street to be Vacated," dated December 5, 2002, prepared by AES Consulting Engineers.  
Value offered to Owner: \$9,900.00.

BE IT STILL FURTHER RESOLVED that the Chairman of the Board of Supervisors, the County Treasurer and the County Attorney are hereby authorized and directed, for and on behalf of the County, to execute certificates to be recorded in the Clerk's Office of the Circuit Court for York County, certifying the amounts set forth above as the fair value, and damages, if any, of the interests to be taken, will be paid the owners in accordance with the provisions of State law and upon order of the Court.

BE IT STILL FURTHER RESOLVED that the County Attorney be, and he is hereby, authorized, if necessary and appropriate, at any time following the date of this Resolution, to institute condemnation proceedings in the name of the Board of Supervisors to acquire title to the interests in the property described above, including, if necessary, any other easements or restrictions that may affect the easements sought to be acquired, and to do all things necessary as a prerequisite thereto.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Wiggins, Burgett  
Nay: (0)

#### BOUNDARY LINE ADJUSTMENT AND CONVEYANCE OF PROPERTY

Mr. Barnett made a presentation on proposed Resolution R03-8 to authorize the County Administrator to execute documents necessary to effect a boundary line adjustment affecting tax map parcels 18A-8-A, 18A-1-11B, and 18D-1-11D.

Mr. Zaremba asked what the practical impact was of the boundary line adjustment.

Mr. Barnett stated the practical impact would not occur for another 30-35 years and, if the agreement continued, would not even occur then. He stated this was a housekeeping item and an attempt to solve the problem now rather than let it sit and fester for another three decades.

Mr. Zaremba pointed out that Delegate Rapp was going to propose a statutory change that would be the demise of the Trustees. He asked what would be the implication to the County's agreement with the Trustees if that proposal was successful, and how it would play out with respect to the entire waterfront project.

Mr. Barnett discussed the legislation introduced by Delegate Rapp, which would dissolve any such bodies of Trustees in Virginia that had been created as a town government in the colonial days. If the legislation is successful, any such property of Trustees would be transferred over to the governing body of the county in which they reside.

Mr. Wiggins stated his appreciation of the Trustees in its cooperation with the County.

Chairman Burgett called to order a public hearing on proposed Resolution R03-8 that was duly advertised as required by law and is entitled:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE SUCH DEEDS AND OTHER DOCUMENTS AS MAY BE NECESSARY TO EFFECT A BOUNDARY LINE ADJUSTMENT BETWEEN PROPERTY IN YORKTOWN, VIRGINIA, OWNED BY THE COUNTY AND THE TRUSTEES OF THE TOWN OF YORK, SPECIFICALLY AFFECTING YORK COUNTY TAX MAP PARCEL 18A-8-A (OWNED BY THE TRUSTEES OF THE TOWN OF YORK) AND PARCELS 18A-1-11B AND 18A-1-11D (OWNED BY THE COUNTY OF YORK)

There being no one present who wished to speak concerning the subject resolution, Chairman Burgett closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R03-8 that reads:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE SUCH DEEDS AND OTHER DOCUMENTS AS MAY BE NECESSARY TO EFFECT A BOUNDARY LINE ADJUSTMENT BETWEEN PROPERTY IN YORKTOWN, VIRGINIA, OWNED BY THE COUNTY AND THE TRUSTEES OF THE TOWN OF YORK, SPECIFICALLY AFFECTING YORK COUNTY TAX MAP PARCEL 18A-8-A (OWNED BY THE TRUSTEES OF THE TOWN OF YORK) AND PARCELS 18A-1-11B AND 18A-1-11D (OWNED BY THE COUNTY OF YORK)

WHEREAS, the Trustees of the Town of York own certain property along the Yorktown waterfront and identified as York County Tax Map Parcel 18A-8-A (the Trustees' property); and

WHEREAS, the Board of Supervisors of York County, Virginia, own property on the Yorktown waterfront identified as York County Tax Map Parcels 18A-1-11B and 18A-1-11D (the County property); and

January 21, 2003

WHEREAS, the County expects to acquire from the Commonwealth of Virginia a certain 20' strip of land lying between the Trustees' property and the County property within which are located stormwater drainage facilities; and

WHEREAS, the County and the Trustees, following the County's acquisition of the 20' strip of land from VDOT, desire to relocate the common boundary line between their parcels.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that the County Administrator be, and he is hereby, authorized, subject to the acquisition by the County of the above-referenced 20' strip of land from the Commonwealth of Virginia, to execute such deeds, plats, and other documents as may be reasonably be required to relocate the boundary line between the County property and the Trustees' property as is shown on the exhibit attached to the County Attorney's memorandum of December 17, 2002.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Burgett  
Nay: (0)

#### COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett reported that the General Assembly was in session and provided information on some of the bills before the assembly. He elaborated on the bills that may affect the County, such as HB 269 to allow any locality to regulate parking, and specifically SB 1220 (co-sponsored by Delegate Rapp) that specifies York County. He mentioned HB 1517, with respect to the Transient Occupancy Tax, that requires all of the tax must be spent on tourism or tourism promotion, and not just the excess over 2 percent. HB 1519 would cap real estate assessments and tax increases to 5 percent in any year, unless approved by referendum, or unless tied to the percentage of population growths, plus the percentage increase in the inflation rate. He noted that one bill staff is watching is HB 2522 that would limit the E-911 tax to three dollars per residence regardless of the number of subscriber lines to that residence. This would cause potential tax losses in the County.

Mr. Zaremba questioned a bill introduced that would equalize the taxing authorities of the counties and cities.

Mr. Barnett stated that bill was in committee now.

Mr. Zaremba suggested the Board read the editorial in today's Daily Press. He stated the article makes a point that the counties are basically treated as second class citizens by the General Assembly with respect to taxing authorities. He stated there was an opportunity to tax cigarettes, as neighboring states do, to increase the revenues, but yet when the Board of Supervisors met with the County's legislators, they indicated there was no way were they going to push forth any tax increase across the Commonwealth. Mr. Zaremba stated it was an election year in 2003, and no one would push for tax increases during an election year.

#### COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds stated that a work session on the proposed Capital Improvements Program (CIP) for fiscal year 2004-2009 was scheduled for January 28 to begin the process of reviewing the CIP. He reminded the Board of its next regularly scheduled meeting on February 4, followed by a second work session on February 11, at which time secondary roads will be discussed.

#### MATTERS PRESENTED BY THE BOARD

Mr. Shepperd stated he attended his first meeting of the Youth Commission, and he looked forward to future meetings with that commission. He also met with the York County Transportation Safety Commission which meets on a quarterly basis, and he discussed three areas of new business discussed at that meeting which include a study of traffic problems caused by people using cellular phones, transportation funding issues concerning the major arteries throughout the area, and the licensing of young drivers. He provided statistical information indicating that auto accidents claim the lives of more teens than anything else. Mr. Shepperd stated he had attended a meeting on January 15 of the Parent Teachers Association (PTA) at York Middle School, and he served as a judge in the American Legion's Rhetorical contest held in Phoebus on January 18. He then provided the web site for VDOT and listed a few of the services that can be requested on the web site.

Mrs. Noll reminded women in the audience to have their annual mammogram. She stated the V-Team will again sponsor the Relay for Life teams, and she reminded everyone of the Bowl-A-Thon to be held on March 22 with those proceeds to benefit Relay for Life. She stated the meeting with the School Board was a productive meeting, and that the Friends of the Library were sponsoring a reception for Beverly Dudley's retirement on January 31. She reminded everyone to remember the military families that are currently being deployed.

Mr. Wiggins reported on the joint work session with the School Board and stated he was pleased to report that both boards had a common interest – the well being of the County's children. He explained that there are so many needs in the County it is just impossible to give everybody everything they want. He stated he has been approached by citizens who ask to have taxes raised to help schools, fire and life safety, as well as for other needs, but he pointed out that the County has to live within its means. He mentioned the low tax rates in the County, and the fact that many people want to live in the County because of the school system. He explained that the County is a desirable location which makes property values escalate. He stated that the cost of living had gone up 2 percent, making it difficult for those citizens who live on fixed incomes.

Mr. Zarembo stated he would like to have the bill passed that would authorize equal taxing authority to all local governments.

Chairman Burgett thanked Wal-Mart for the landscaping improvements and stated he was pleased that the landscaping had been completed. He stated he and Mr. McReynolds would be in the northern part of the County on January 22 to attend the opening of the new Wal-Mart. He asked his colleagues to bring their calendars to the work session in an effort to agree on a date for the Board's retreat. He mentioned the Sights and Sounds of Yorktown that will open in York Hall next week. He reported on the school's budget that will receive \$1.2 million more from the County than last year; he explained that the school's budget was actually bigger than

January 21, 2003

the County's budget. He further explained that 85 percent of the school's budget pays for salaries and that only 30 percent of the people in the County have children in the schools. This equated to 46 cents of every dollar that the County receives being allocated to the School Board. Chairman Burgett stated there are new projections of students that will require more teachers. The state has recognized this and has sent along an extra \$1.5 million for the new students.

#### CONSENT CALENDAR

Mr. McReynolds stated that there was a typographical error in Item No. 15 on proposed Resolution R03-11. The amount \$31,000 should be changed to \$28,000.

Mr. Shepperd asked that Item No. 13 be removed from the Consent Calendar. He then moved that the Consent Calendar be approved as amended, Item Nos. 10, 11, 12, 14 and 15 respectively.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Burgett  
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

#### Item No. 10. APPROVAL OF MINUTES

The minutes of the following meeting of the York County Board of Supervisors were approved:

January 7, 2002, Regular Meeting

#### Item No. 11. PUBLIC WATER EXTENSION AGREEMENT: MICHAEL COMMONS: Resolution R03-2.

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S PUBLIC WATER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS MICHAEL COMMONS INTERNATIONAL CENTER, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC WATER EXTENSION AGREEMENT

WHEREAS, Jim Griffith Builder, Inc. has requested that the County enter into a public water extension agreement pursuant to § 22-88 (b) of the York County Code to serve 6 new commercial facilities; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public water facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's exist-



ing water system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 22 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$11,100.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that the Board approves the extension of the County's public water system to serve the proposed development, Michael Commons International Center, and that the County Administrator be, and he hereby is, authorized to execute a public water extension agreement with Jim Griffith Builder, Inc., for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 12. PUBLIC SEWER EXTENSION AGREEMENT: MICHAEL COMMONS: Resolution R03-3

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS MICHAEL COMMONS INTERNATIONAL CENTER, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, Jim Griffith Builder, Inc. has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve six new commercial facilities; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$13,800.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that the Board approves the extension of the County's public sewer system to serve the proposed development, Michael Commons International Center, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Jim Griffith Builder, Inc., for the proposed extension; such agreement to be approved as to form by the County Attorney.

January 21, 2003

Item No. 14. COMMENDATION OF BEVERLY DUDLEY: Resolution R03-15

A RESOLUTION TO COMMEND BEVERLY E. DUDLEY, YORK  
COUNTY MANAGER OF LIBRARY SERVICES, ON THE OCCASION  
OF HER RETIREMENT

WHEREAS, Beverly E. Dudley, began employment June 6, 1970, and on January 31, 2003, is retiring from her present position as Manager of Library Services after 32 years of service; and

WHEREAS, Mrs. Dudley's library service to the citizens of York actually began even prior to her employment, when the York County Volunteer Association (YCVA) opened a library in a small farmhouse on the corner of Route 17 and Dare Road in 1968; and

WHEREAS, Mrs. Dudley assisted YCVA, later becoming a paid employee and in 1971, at the time the County began providing Library Services, she became York's very first Library employee; and

WHEREAS, in her capacity as Librarian, she oversaw the establishment of an official York County Library, coordinating a move from the farmhouse to a storefront Library in the Grafton Shopping Center; and

WHEREAS, in that facility she developed a comprehensive collection, hired other staff members and assisted the County's first Library Board of Trustees; and

WHEREAS, as the Library was highly successful and as the County grew in population, the Board of Supervisors determined that it was appropriate to build a Library and made plans to do so on property donated by the O'Hara Family on George Washington Highway; and

WHEREAS, Mrs. Dudley worked with the County Board and staff and the Library Trustees to design such a facility and to assure that the citizens were well informed and supported financing such an endeavor; and

WHEREAS, Mrs. Dudley again organized and coordinated a major relocation effort, opening the York County Public Library in the first County owned building on September 13, 1984; and

WHEREAS, throughout the 1980s and early 1990s Mrs. Dudley expanded collections and staff, operating a full-service Library, emphasizing quality and excellence in service, keeping pace with changes in library science and new developments in technology; and

WHEREAS, the Library was highly successful and as the County continued to grow in population, the Board of Supervisors determined that additional Library facilities were needed and that it was appropriate to construct a second Library and made plans to do so on property purchased to ease overcrowding and also to be more convenient to the many residents of the lower County; and

WHEREAS, Mrs. Dudley worked closely with the County staff and the Library Trustees to assure the design, development, equipage and staffing of the new York County Public Library – Tabb, a 34,000 square foot facility that opened on October 9, 1999, giving York two Libraries in a unified system; and

WHEREAS, in her over 32 years of employment, Mrs. Dudley has the distinction of serving as York's first and only Chief Librarian; has been instrumental in the development of a large and comprehensive, multi-site library system; has supervised a strong and outstanding staff committed to quality service; has worked with numerous County staff and with 28 Library Trustees; and

WHEREAS, as an employee of the Library Board of Trustees, she has been loyal and in all that she has done, she has demonstrated great knowledge of Library Science and an unyielding commitment to quality Library service; and

NOW, THEREFORE, BE IT RESOLVED, by the York County Board of Supervisors and it is hereby, that Beverly E. Dudley is to be commended for her dedication, her loyalty and her commitment throughout the past 32 years and for her exemplary efforts and her many accomplishments;

BE IT FURTHER RESOLVED that at this time of her retirement, an expression of appreciation be conveyed to Mrs. Dudley on behalf of the County of York, its staff and the countless citizens who have benefited from her caring and her many contributions; and

BE IT STILL FURTHER RESOLVED that the Board of Supervisors offers the very best wishes to her and to her loved ones for a rewarding and pleasurable retirement.

Item No. 15: REQUEST FOR ALLOCATION OF LODGINT TAX REVENUES: Resolution R03-11(R)

A RESOLUTION TO APPROVE A REQUEST FOR ALLOCATION OF REVENUES GENERATED BY LODGING TAXES AND INTENDED TO ENHANCE TOURISM AND TOURISM-RELATED BUSINESS IN YORK COUNTY

WHEREAS, the Board has received certain requests for allocation of funds generated by the additional 3% lodging tax enacted on July 1, 1996 which, according to the enabling legislation, are to be spent for promoting tourism, travel, or business that generates tourism and travel; and

WHEREAS, the Board has reviewed the most time-sensitive request and the associated report prepared by the County Administrator and has carefully considered the potential for the proposed program to generate increased visitation and expenditures in York County and Yorktown;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 21<sup>st</sup> day of January, 2003, that the following request for funding be, and it is hereby, approved:

? Yorktown July 4<sup>th</sup> Celebration

\$28,000

Item No. 13. PURCHASE AUTHORIZATION: Resolution R03-12 (Removed from the Consent Calendar).

January 21, 2003

Mr. Shepperd asked if the Brandywine drainage study was something that came from the Drainage Committee.

Mr. John Hudgins, Director of Environmental and Development Services, replied that it was part of the original list that the Drainage Committee had developed.

Mr. Shepperd then moved the adoption of proposed Resolution R03-12 that reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO CONDUCT THE BRANDYWINE AREA DRAINAGE STUDY

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, that it involves the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following :

	<u>AMOUNT</u>
Brandywine Area Drainage Study	\$98,000

On roll call the vote was:

Yea:	(5)	Wiggins, Shepperd, Zaremba, Noll, Burgett
Nay:	(0)	

NEW BUSINESS

APPROVAL OF 2002 MINUTES

Mr. McReynolds explained that since Mr. Burgett was not the Chairman at the time of the subject meetings held in 2002, the Code of Virginia required that the minutes be read prior to their approval and that the current Chairman be authorized to sign them.

Chairman Burgett then polled the Board members, determining that each of them had read the minutes of the December 17 Board meeting.

Mr. Shepperd made a correction to the December 17, 2002, minutes under his Matters Presented by the Board. He stated the name of the inspirational speaker should read "Milton Creigh."

Chairman Burgett then moved that the minutes of the December 17, 2002, Board of Supervisors' meeting be approved as amended and that he be authorized to sign such.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Wiggins, Burgett  
Nay: (0)

REVISION OF THE JOINT WATERFRONT AGREEMENT WITH YORKTOWN TRUSTEES

Mr. Barnett made a presentation on proposed Resolution R03-10 to authorize the execution of an amended joint agreement between the County and the Trustees of the Town of York regarding the development of the Yorktown waterfront.

Discussion followed concerning the \$10,000 amount allocated to the Trustees for operating expenses.

Mrs. Noll then moved the adoption of proposed Resolution R03-10 that reads:

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDED  
JOINT AGREEMENT BETWEEN THE COUNTY AND THE TRUSTEES  
OF THE TOWN OF YORK, REGARDING THE DEVELOPMENT OF THE  
YORKTOWN WATERFRONT

WHEREAS, by an agreement dated May 7, 2001, and amended as of September 4, 2001, the County and the Trustees of the Town of York agreed to the development of portions of the Trustees' property on the Yorktown waterfront; and

WHEREAS, upon the recent acquisition of several parcels of property in Yorktown by the County, the County has proposed and the Trustees have accepted a revision to the proposed development plan for the Yorktown waterfront (the Conceptual Master Plan); and

WHEREAS, the County and the Trustees desire to further amend the joint agreement to reflect the revised Conceptual Master Plan, and to adjust the boundary line between the property owned by the County and property owned by the Trustees, and to make such other changes are deemed reasonably necessary to develop the Yorktown waterfront as envisioned in the revised Conceptual Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that the County Administrator be, and is hereby, authorized, for and on behalf of the Board, to execute a second amendment to that joint agreement between the Board of Supervisors of York County, Virginia, and the Trustees of the Town of York, previously made as of May 7, 2001, and amended as of September 4, 2001, such amendment to be consistent with the changes proposed in the County Administrator's memorandum of January 7, 2003, and attachments thereto, such revised agreement to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Burgett  
Nay: (0)

January 21, 2003

**CLOSED MEETING.** At 10:17 p.m. Mr. Shepperd moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions; and Section 2.2-3711(a)(3) pertaining to the acquisition of real property for a public purpose.

On roll call the vote was:

Yea: (5) Wiggins, Shepperd, Zaremba, Noll, Burgett  
Nay: (0)

**Meeting Reconvened.** At 10:43 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM  
OF INFORMATION ACT REGARDING MEETING IN CLOSED MEET-  
ING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 21st day of January, 2003, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Wiggins, Burgett  
Nay: (0)

**APPOINTMENT TO THE REGIONAL ISSUES COMMITTEE**

Mr. Shepperd moved the adoption of proposed Resolution R03-13 that reads:

A RESOLUTION TO APPOINT A MEMBER TO THE REGIONAL IS-  
SUES COMMITTEE

WHEREAS, the Board wishes to appoint a citizen to fill the vacancy on the Regional Issues Committee;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that the following individual is hereby appointed to serve on the Regional Issues Committee, such term to expire on December 31, 2004.

Joseph R. Ambrose, Jr.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Burgett  
Nay: (0)

APPOINTMENT TO THE YORK COUNTY PLANNING COMMISSION

Mrs. Noll moved the adoption of proposed Resolution R02-198(R) that reads:

A RESOLUTION TO APPOINT A MEMBER TO THE YORK COUNTY  
PLANNING COMMISSION

WHEREAS, Spencer W. Semmes, Planning Commissioner for Election District 2, is no longer a resident or real property owner in York County and has submitted his resignation from the Commission; and

WHEREAS, the current appointment for Election District 2 will expire June 30, 2005; and

WHEREAS, Section 15.2-2212, Code of Virginia, requires that local planning commission members be residents of the locality in which they serve; and

WHEREAS, the Planning Commission seat for Election District 2 is vacant;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 21<sup>st</sup> day of January, 2003, that the following appointment is made to the Planning Commission, such appointment to be effective immediately and to expire June 30, 2005:

Alexander T. Hamilton                      Election District 2

On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Burgett  
Nay: (0)

Meeting Adjourned At 10:46 p.m. Mr. Zaremba moved that the meeting be adjourned to 6:00 p.m., January 28, 2003, in the East Room of York Hall for the purpose of conducting a work session.

On roll call the vote was:

Yea: (5) Wiggins, Shepperd, Zaremba, Noll, Burgett

January 21, 2003

Nay: (0)

-----  
James O. McReynolds, Clerk  
York County Board of Supervisors

-----  
James S. Burgett, Chairman  
York County Board of Supervisors